

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JOE RABB,

Plaintiff,

vs.

GATOR MACHINERY COMPANY,  
INC., a foreign corporation; COSCO  
CONTAINER LINES AMERICAS,  
INC., a foreign corporation,

Defendants.

2:10-CR-00698-PMP-PAL

**ORDER**

On December 28, 2010, the Court entered an Order (Doc. #39) granting Gator Machinery Inc.'s Renewed Motion to Dismiss Plaintiff's Second Amended Complaint (Doc. #25) and denying Plaintiff's Counter Motion to Amend/Correct Complaint (Doc. #31). Additionally, the Court denied Defendant COSCO Container Lines Americas Inc.'s Joinder in Defendant Gator's Motion to Dismiss to the extent it sought dismissal based upon lack of jurisdiction.

Recently, however, it has been brought to the attention of the Court by a letter filed on behalf of Defendant COSCO that the Court's Order (Doc. #39) did not address Defendant COSCO's alternate basis for dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Defendant COSCO is correct, and the Court has now had the opportunity to revisit the motion to address this latter aspect of Defendant COSCO's motion. Having done so, the Court finds that Plaintiff has

1 in his Complaint sufficiently stated plausible claims for Negligence, Negligence Per  
2 Se and Strict Liability.

3 **IT IS THEREFORE ORDERED** that Defendant COSCO's Motion to  
4 Dismiss Plaintiff's Complaint for Failure to State a Claim Pursuant Rule 12(b)(6) of  
5 the Federal Rules of Civil Procedure (Doc. #32) is **DENIED**.

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7 DATED: February 23, 2011.

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10 PHILIP M. PRO  
11 United States District Judge  
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